

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	2:21-CR-00006-DCLC-CRW
)	
v.)	
)	
GRIFFEN DOUGLAS FERGUSON,)	
)	
Defendant.)	

MEMORANDUM OPINION

Before the Court is Defendant’s Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) and Guideline Amendment 821 [Doc. 399]. The United States (“the Government”) filed a response [Doc. 407]. Thus, the motion is ripe for review. For the reasons provided herein, Defendant’s motion [Doc. 399] is **GRANTED**.

I. BACKGROUND

On February 23, 2022, Defendant pleaded guilty to one count of conspiracy to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(A) [Docs. 144, 159]. Based upon a total offense level of 27, a criminal history category of IV, and the statutory mandatory minimum 10-year sentence, Defendant’s guideline range was 120 to 125 months. *See* U.S.S.G. § 5G1.1(c)(2). On June 9, 2022, the Court sentenced Defendant above the guideline range to a term of 135 months’ imprisonment to be followed by a 5-year term of supervised release [Doc. 265]. Defendant is currently housed at USP Terre Haute with a projected release date of January 2, 2032. *See* Bureau of Prisons, <https://www.bop.gov/inmateloc/> (last visited June 5, 2024). Defendant now seeks a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) [Doc. 399].

II. ANALYSIS

“A district court may modify a defendant’s sentence only as provided by statute.” *United States v. Johnson*, 564 F.3d 419, 421 (6th Cir. 2009) (citation omitted). Relevant here, 18 U.S.C. § 3582(c)(2) authorizes a court to impose a sentence reduction when a defendant “has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . after considering the factors set forth in [18 U.S.C. § 3553(a)] to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2).

Amendment 821, which took effect on November 1, 2023, altered the application of the guidelines with respect to offenders who earned criminal history “status” points based on the commission of an offense while serving a criminal justice sentence or offenders with zero criminal history points at the time of sentencing. In relevant part, Amendment 821 amended U.S.S.G. § 4A1.1 to reduce or eliminate status points. Specifically, status points are eliminated for defendants with six or less criminal history points and one status point, rather than two points, is applied for defendants with more than six criminal history points.

At the time of sentencing, Defendant received two status points for committing the offense while under a criminal justice sentence in Washington County, Virginia Circuit Court [Doc. 223, ¶ 40]. If sentenced today, Defendant would not receive any status points under U.S.S.G. § 4A1.1, resulting in 5 criminal history points and criminal history category III. Defendant’s amended guideline range would be 120 months, as restricted by the mandatory minimum. *See* U.S.S.G. § 5G1.1(b). Thus, Defendant is eligible for a reduction under Amendment 821. However, “the decision whether and to what extent to grant an authorized sentence reduction is discretionary.” *United States v. Monday*, 390 F. App’x 550, 554 (6th Cir. 2010).

Given the particular circumstances of this case, the Court finds that a sentence reduction is warranted, but the upward variance is also warranted for the reasons provided at sentencing. Thus, Defendant's sentence shall be reduced by five months, resulting in a total term of imprisonment of 130 months.

III. CONCLUSION

For the reasons stated herein, Defendant's motion [Doc. 399] is **GRANTED**. A separate Order shall enter.

SO ORDERED:

s/ Clifton L. Corker
United States District Judge